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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,783	01/18/2002	Jason F. Hunzinger	440402000700	4213
25224	7590	02/15/2005	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024			PEREZ, ANGELICA	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,783

Applicant(s)

HUNZINGER, JASON F.

Examiner

Perez M. Angelica

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-21 and 23-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,6-21 and 26-38 is/are allowed.
- 6) ☒ Claim(s) 39-42 is/are rejected.
- 7) ☐ Claim(s) 4,5 and 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/12/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. Claims 1, 6, 15, 19, 25, 34 and 38 are allowed.

Prior art has not been found that suggests or renders obvious the limitations of independent claims 6, 15, 19, 25, 34 and 38 disclosing the limitations to a rescuer procedure that follows the detailed order followed in the claim.

Claims 2, 9-14; 7-8; 16-18; 20-21, 28-33; 26-27 and 35-37 that depend on the respective claims above are allowed for the same reasons of at least those recited for independent claims 1, 6, 15, 19, 25, 34 and 38.

Claim Objections

2. Claims 4-5 and 23-24 are objected to because of the following informalities: the mentioned claims depend directly or indirectly on cancelled claims 3 and 22. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology

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Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Regarding claim 39, Saito teaches where in a system comprising a network (figures 3 and 4; where a BS and MS are part of a network in a system) and at least one mobile station (MS) (figure 4) for enabling communication with at least one mobile station (figures 3 and 4; where it is inherent for a base station to enable the establishing of communication between two mobile stations), the at least one MS having a connection with the network that is capable of becoming a potentially failing connection (column 4, lines 5-8; where inherently network connections are capable of becoming a potentially failing connection) and the system for executing a rescue procedure for rescuing the potentially failing connection upon detection of the potentially failing connection (column 4, lines 5-8; where the transmission power control method prevents disconnection or "rescues" a connection), a method for computing a rescue transmission output power level of a MS having a potentially failing connection (column 4, lines 32-37; where the "output power level" is the transmission power), the method comprising: determining a delta power value for rescue control (column 4, lines 26-32; where the difference between the reference value and the received value correspond to a delta power value or "correction value"); and computing the rescue transmission output power level based on the delta power level (column

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4, lines 32-37; where the transmission power value is set on the basis of the "correction value" or delta).

Regarding claim 40, Saito teaches all the limitations of claim 39. Saito further teaches where the rescue transmission output power level is computed based on the delta power value rescue control and a last power level (column 4, lines 23-37; where the transmission power is the result of the last averaged received power level and the correction value or "delta". Also, according to the application's specification, the last power level refers to a last mean power level).

Regarding claim 41, Saito teaches all the limitations of claim 39. Saito further teaches where the delta power value is communicated by the network to the MS in a message prior to rescue (column 4, lines 30-32; where the "correction value" or "delta power value" is communicated to the MS prior to rescue).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito in view of Gandhi (Gandhi et al.; US Pub. No.: 2003/0,022,630 A1).

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Regarding claim 42, Saito teaches all the limitations of claim 40. Saito further teaches where the last power level is a last closed loop power level determined at the time closed loop power control bits were received by the MS prior to detection of the potentially failing connection (where examiner was not able to find the specification as it reads in claim 42. Paragraph 45 refers to the power level adjustment defined by power control bits represent the sum of all previously received power control bits. In other words, the entire series of "up" and "down" steps must be taken into account in order to determine the net (present) power level").

Saito does not teach where the last power level is a last closed loop power level determined at the time closed loop power control bits were received by the MS prior to detection of the potentially failing connection.

In related art concerning reverse-link power control, Gandhi teaches where the last power level is a last closed loop power level determined at the time closed loop power control bits were received by the MS prior to detection of the potentially failing connection (paragraphs 25, and 27-29; where the all the power control bits from all power control corrections executed in a close-loop method are taken in consideration to determine the output power level).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to combine Saito's system with Gandhi's pre-rescue all the power control bits from all power control corrections executed in a close-loop method in order to adjust the output power level accordingly, as taught by Gandhi.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 703-305-8724. The examiner can normally be reached on 7:15 a.m. - 3:55 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and for After Final communications.

Information regarding Patent Application Information Retrieval (PAIR) system can be found at 866-217-9197 (toll-free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.


Angelica Perez
(Examiner)


NAY MAUNG
SUPERVISORY PATENT EXAMINER

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February 8, 2005